**Remarks**

Applicants respectfully request reconsideration of the present U.S. Patent application as amended herein. Claim 13 has been amended. No claims have been added or canceled. Thus, claims 1-22 are pending.

Regarding the Declaration and Power of Attorney apparently missing from your file, enclosed please find a copy from our file.

Claims 2, 8, 16, 21 stand objected to as not being formulated with standard English constructs. Applicant traverses the objection since the claims do use proper English. That is, the following language:

> determining the application program installer incorrectly identified a successful installation of the update to the network resources of the customer on the first server;

from claim 2, 8, 16, 21 is valid and is broken-out below:

> determining
>> the application program installer incorrectly identified
>> a successful installation of
>> the update to the network resources
>> of the customer on the first server;

A proper English sentence requires a subject and an action, which may be combined along with an object of the action. As should hopefully now be clear from the above break out, what is claimed is a determination that an application program has incorrectly identified as successful an installation of an update—an update to what?—to network resources of a customer—which customer?—one on the first server.

It appears the objection is based on the Office attempting to directly tie

"installation" with "on the server" as opposed to relating the installation to network

resources of the compound passive noun reference "of the customer on the first server."

Admittedly, claim language is often not pretty, but it is submitted the above language

nonetheless utilizes proper English structure. Applicant is open to suggestion if the

Office has proposed language that may better express claim intent so long as it does

not change claim scope or intent, and does not raise Festo-type issues.

Regarding the objection to claim 13, the term POD has been expanded to Point

of Distribution as suggested. Thank you for pointing out this clerical error. As described

in the specification at page 4 lines 13-16, a POD generally refers to a physical and/or

logical collection of servers, e.g., FIG. 1 servers 1 through N **112**, and/or other

machines or devices used to serve a hosted client's network resources.

Regarding the Action's request that Applicant add a "Summary of the Invention"

description to the application, Applicant would like to kindly point out that both the

M.P.E.P. and 37 C.F.R. §1.73 do no require the presence of a "Summary of the

Invention" in a patent application. They merely indicate where in the application the

"Summary of the Invention" should be placed if Applicant were to elect to include one.

In particular, 37 C.F.R. §1.73 only states that "[a] brief summary of the invention ...

should preclude the detail description." 37 CFR § 1.73 does not state "must" or "shall."

Accordingly, Applicant has elected not to include a "Summary of the Invention" as this is

within the discretion of Applicant.

### 35 USC §103

Claims 1-22 stand rejected as being obvious over Basani (U.S. Patent No.

6,748,447) in view of Mathur (U.S. Patent No. 5,008,814) and Araujo (U.S. Publication

No. 2001/0047406).

Applicant notes multiple invention disclosures underlie the present invention and

were formally presented to the internal Intel patent group for review at least as late as

February 2, 2001.  Applicant notes this latest date still predates the Araujo reference.  If

the following discussion is not persuasive, then the undersigned will seek to provide an

affidavit swearing back of the Araujo reference.

Regarding the reliance by the Office on Basani, the Office appears to

inadvertently misread claim 1 as reciting "utilizing an application program to install"

rather than the recited is "utilizing an *application program installer*" (emphasis added

to highlight compound noun), e.g., a conventional application program installer such as

the Microsoft Windows Software Installer (MSI) Application or equivalent software (see

original Abstract or Specification page 5 line 23).

The cited portion of Basani relied on by the Office, does not appear to teach or

suggest the recited conventional *application program installer* and instead appears to

discuss a proprietary environment for "distribution of data files or portions of files,

applications, or other data objects" with a proprietary "content-management front-end"

providing "controls for triggering distribution of digitized data content to selected groups

of a large number of remote computer servers" (see Basani Abstract).  It is submitted

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such distribution of digitized data is **not** equivalent to the recited use of a conventional *application program installer* "to apply the update to the network resources of the customer" as recited in claim 1.

Thus, due to the failure of Basani to teach or suggest use of the conventional *application program installer* as recited, for at least this reason alone, the suggested combination of references fails to teach or suggest all elements of claim 1 as is required to maintain the rejections. Independent claims 7, 13, and 20 also recite use of the *application program installer*, hence Applicant respectfully requests withdrawal of the rejections of claims 1-22.

Regarding application of Mather to claim 1, it is respectfully noted that recited in claim 1 is "utilizing an application program installer to apply the update **to the network resources of** the customer on the first server." Mather, as best this reference is understood, does not appear to teach or suggest applying an update to network resources as recited. Instead, Mather teaches installing a **new** copy of software in a nonvolatile memory **different from** another nonvolatile memory storing currently used software, e.g., the **old** software; this new copy of software is trial run, and if successful, adopted for use instead of using the old software (see Mather's four types of "non-volatile storage devices 103," e.g., New, Dirty, Trial and Old discussed at col. 3 line 65 – col. 4 line 43). It is apparent from this discussion in Mather than an entirely clean copy of new software is provided and tested rather than performing the update to existing network resources as recited—hence this teaching of Mather cannot teach or suggest updating network resources as recited.

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Thus, even if the discussion above regarding Basani is deemed unpersuasive, the combination of documents suggested by the Office still fails due to Mather failing to teach or suggest performing the update to existing network resources as recited. For at least this reason alone, the suggested combination of references fails to teach or suggest all elements of claim 1 as is required to maintain the rejections. Independent claims 7, 13, and 20 also recite corresponding limitations; hence, Applicant respectfully requests withdrawal of the rejections of claims 1-22.

Regarding Araujo, given the failures of Basani and Mather discussed above, Applicant submits it is not necessary to address substantively Araujo at this time since the suggested combination of references already fails as discussed above.

Regarding the rejection of dependent claims 2-6, 8-12, 14-19 and 21-22, the substance of these rejections is not being addressed at this time in order to focus examination on the allowability of the independent claims 1, 7, 13, and 20. It is respectfully submitted that dependent claims 2-6, 8-12, 14-19 and 21-22, while introducing further limitations distinguishing over the cited documents relied on by the Office, these claims are also allowable for at least the reason as depending from allowable base claims.

Conclusion

For at least the foregoing reasons, Applicants submit the rejections have been

overcome and claims 1-22 are therefore in condition for allowance; such action is

earnestly solicited.

**If the foregoing is not persuasive, the Examiner is respectfully requested to**

**contact the undersigned by telephone to discuss how to best further examination**

**of the present application.**

Please charge any shortages and credit any overcharges to our Deposit Account

number 02-2666.

                                        Respectfully submitted,

Date:   November 17, 2004

                                        Steven D. Yates
                                        Patent Attorney
                                        Intel Corporation
                                        Registration No. 42,242
                                        (503) 264-6589

c/o Blakely, Sokoloff, Taylor & Zafman, LLP
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1026